

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CHRIS TURNER,

Petitioner

V.

NO. 3:94CV129-D-D

EDWARD M. HARGETT, ET AL,

Respondents

O P I N I O N

Petitioner, Chris Turner, an inmate at the Mississippi State Penitentiary, files this petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 seeking to have his custody level upgraded from B-Custody to A-Custody.

Petitioner was considered for an upgrade in custody by the Classification Committee on May 15, 1992, which decided to leave him at his current custody level because the committee felt he needed longer observation. On January 25, 1993, petitioner filed a Request for Administrative Remedy asking for a new hearing on the grounds that the committee's decision was arbitrary and impermissible as a matter of law. His request was denied on February 4, 1993.

After carefully considering the contents of the pro se complaint and giving it the liberal construction required by Haines v. Kerner, 404 U.S. 519 (1972), this court has come to the following conclusion.

"Any challenge to the fact or duration of a prisoner's confinement is properly treated as a habeas corpus matter, whereas challenges to conditions of confinement may proceed under Section 1983." Jackson v. Torres, 720 F.2d 877, 879 (5th Cir. 1983). "The relief sought by the prisoner or the label he places upon the action is not the governing factor." Id.

Although petitioner filed this action as a habeas corpus action it does not challenge the fact or duration of his confinement. Instead he challenges the condition of his confinement, specifically, one custody grade as opposed to another. Therefore, the suit should have been brought pursuant to 42 U.S.C. §1983 and will be treated as such by the court.

Inmates have no constitutional claim to any particular security classification. The classification system is a matter ordinarily left to the expertise and discretion of prison administrators. McCord v. Maggio, 910 F.2d 1248 (5th Cir. 1990), appeal after remedy, 927 F.2d 844 (5th Cir. 1991); Beard v. Livesay, 798 F.2d 874 (6th Cir. 1986); Hernandez v. Johnston, 833 F.2d 1316 (9th Cir. 1987). A prisoner has no constitutional right to any particular status, once incarcerated. Beardsley v. Moore, 765 F.Supp. 560 (E.D. MO. 1991).

Therefore, considering the allegations contained in the petition, since no arguable factual or legal basis for a claim of constitutional dimension exists for the wrongs asserted therein entitling him to the relief sought, it is the opinion of the court

that this petition be dismissed sua sponte for failure to state a claim upon which relief can be granted.

A final judgment in accordance with this opinion will be entered.

THIS the _____ day of _____, 1994.

UNITED STATES DISTRICT JUDGE